

Applicants respectfully traverse the obviousness-type double patenting rejections. However, to expedite the prosecution of this application, Applicants submit herewith a terminal disclaimer with respect to U.S. Patent Nos. 6,000,251; 6,112,562 and 5,381,685, as well as a terminal disclaimer with respect to copending U.S. Patent Application Nos. 09/441,142; 09/603,394 and 09/804,973. In view of the terminal disclaimer filings, Applicants respectfully request withdrawal of the obviousness-type double patenting rejections. Pending claims 92-105 should now be in condition for allowance.

Applicants are expediting the prosecution by filing the terminal disclaimers. The terminal disclaimer filings are not to be construed as an admission by Applicants that the pending claims are obvious in view of the claims of the cited patents and patent applications. As noted by the Court of Appeals for the Federal Circuit, the filing of the terminal disclaimer "simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simply expedient of 'obviation' into an admission or acquiescence or estoppel on the merits." *Quad Environmental Technologies v. Union Sanitary District*, 20 U.S.P.Q.2d 1392, 1394-1395 (Fed. Cir. 1991).

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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